NOVA SCOTIA

Environment and Labour

Reference Guide To The

WORKPLACE HAZARDOUS MATERIALS INFORMATION SYSTEM (WHMIS) REGULATIONS

Produced by the

Occupational Health And Safety Division
P.O. Box 697
Halifax, N.S.
B3J 2T8
1-800-952-2687
E-Mail: labrohs@gov.ns.ca
http://www.gov.ns.ca/enla/

Disclaimer:

The commentary found in this document is not intended to be an exhaustive interpretation or to constitute legal advice to members of the public. This document is prepared for convenience only, and for accurate reference, the reader should see the official volumes of the legislation.

Short title

These regulations may be cited as the Workplace Hazardous Materials Information System (WHMIS) Regulations.

Interpretation

1 In these regulations

(a) "bulk shipment" means a shipment of a controlled product that is contained without intermediate packaging in

(i) a vessel with a water capacity of more than 454 litres,

(ii) a freight container, a road vehicle, a railway vehicle, a portable tank, a freight container carried on a road vehicle, a railway vehicle, ship or aircraft or a portable tank carried on a road vehicle, a railway vehicle, ship or aircraft,

(iii) the hold of a ship, or

(iv) a pipeline;

Shipments of ingots of controlled products shipped without wrapping of any sort are to be treated as bulk shipments where the other criteria are met. PIS 68, September 19, 1998.

(b) "Commission" means the Hazardous Materials Information Review Commission established by subsection 28(1) of the Hazardous Materials Information Review Act;

(c) "container" includes a bag, barrel, bottle, box, can, cylinder, drum, storage tank or similar package or receptacle;

(d) "controlled product" means any product, material or substance specified by the regulations made pursuant to paragraph 15(1)(a) of the Hazardous Products Act to be included in any of the classes listed in Schedule II of that Act;

(e) "Controlled Products Regulations" means the Controlled Products Regulations made pursuant to the Hazardous Products Act;

(f) "Disclosure of Information Regulations" means the Disclosure of Information Regulations made pursuant to the Occupational Health and Safety Act;

(g) "fugitive emission" means a gas, liquid, solid, vapour, fume, mist, fog or dust that escapes from process equipment or from

emission control equipment or from a product;

(h) "hazard information" means information on the proper and safe use, storage and handling of a controlled product and includes information relating to its toxicological properties;

(i) "Hazardous Materials Information Review Act" means the Hazardous Materials Information Review Act (Canada);

(j) "Hazardous Products Act" means the Hazardous Products Act (Canada);

(k) "hazardous waste" means a controlled product that is intended for disposal or is sold for recycling or recovery;

(l) "label" includes any mark, sign, device, stamp, seal, sticker, ticket, tag or wrapper;

(m) "laboratory sample" means, in respect of a controlled product, a sample of the controlled product that is intended solely to be tested in a laboratory but does not include a controlled product that is to be used

(i) by the laboratory for testing other products, materials or substances, or

(ii) for educational or demonstration purposes;

The term "laboratory" includes non-traditional laboratories, such as field testing situations, production line sampling/testing and steam heating plant sampling/testing. PIS 5, September 19, 1998.

(n) "manufactured article" means any article that is formed to a specific shape or design during manufacture, the intended use of which, when in that form, is dependent in whole or in part on its shape or design, and that, under normal conditions of use, will not release or otherwise cause a person to be exposed to a controlled product;

"Normal conditions of use" does not include an installation process, such as welding a copper pipe, or releases associated with maintenance or abuse. PIS 1, PIS 33, September 19, 1998

"Exposed to" means exposed to a sufficient quantity to pose a hazard. PIS 1, September 19, 1998

Note that fire extinguishers that are controlled products are not to be considered manufactured articles. PIS 39, September 19, 1998.

(o) "material safety data sheet" means a document disclosing the information referred to in subparagraphs 13(a)(i) to (v)

An MSDS that meets the format criteria used by the International Labour Organization (ILO), the

of the Hazardous Products Act and meeting the requirements of the Controlled Products Regulations, subject to Sections 15 and 16 of these regulations;

American National Standards Institute (ANSI) or the European Community is acceptable provided all items required by the CPR are present somewhere on the MSDS. PIS 77, September 19, 1998.

The specifications for MSD sheets are given in the Controlled Products Regulations (Federal) (March 1, 2004)

(p) "product identifier" means, in respect of a controlled product, the brand name, code name, code number, chemical name, common name, generic name or trade name;

The "generic name" must be as precise as reasonably possible without disclosing any protected trade secrets. For example, calling a very complex and large molecule a "substituted ethylene" would not be acceptable, as there are names which could describe it more precisely. PIS 3, September 19, 1998

(q) "risk phrase" means, in respect of a controlled product or a class, division or subdivision of controlled products, a statement identifying a hazard that may arise from the nature of the controlled product or the class, division or subdivision of controlled products;

(r) "supplier label" means a label provided by a supplier disclosing the information and displaying the hazard symbols referred to in paragraph 13(b) of the Hazardous Products Act and meeting the requirements of the Controlled Products Regulations;

(s) "supplier material safety data sheet" means a material safety data sheet provided by a supplier pursuant to paragraph 13(a) of the Hazardous Products Act;

(t) "workplace label" means a label which discloses

(i) a product identifier,

In identifying the product, the workplace label must indicate one of the following: the brand name, code name, code number, chemical name, common name, generic name, or trade name of the controlled product. A product identifier on a label must correspond with one on a material safety data sheet. June 10, 1998.

(ii) information for the safe handling of the controlled product, and

"Information for the safe handling of the product" means precautions that the worker must observe to minimize the risks of adverse health effects or physical injury. Alternatively, hazard information

about the product can be given instead of precautionary measures, as long as through the worker education program, the worker understands the precautions to be taken to guard against the specific hazards. June 10, 1998

(iii) that a material safety data sheet, if supplied or produced, is available.

If a material safety data sheet is available for the controlled product, the workplace label must include a statement to that effect. This material safety data sheet may be provided by the supplier of the product, or one prepared by the employer. Note that for some controlled products, no data sheet will be available, for example, for the controlled products referred to in sub-sections 2(2) and 2(3). In such cases the workplace label does not have to have any statement regarding a material safety data sheet. June 10, 1998.

Application

2 (1) These regulations apply to employers and employees in respect of controlled products used, stored or handled at a workplace.

(2) Notwithstanding subsection (1), the provisions of these regulations, in respect of a supplier label and a material safety data sheet, do not apply where the controlled product is any

This exemption applies only to the provision of MSDS's and supplier labels. It does not lessen the requirements for training or workplace labels in any way. June 10, 1998.

(a) explosive within the meaning of the Explosives Act (Canada);

(b) cosmetic, device, drug or food within the meaning of the Food and Drug Act (Canada);

(c) control product within the meaning of the Pest Control Products Act (Canada);

(d) prescribed substance within the meaning of the Atomic Energy Control Act (Canada); or

The supplier exemption for these materials applies only to the supplier's obligation to his customers. It must be remembered that the supplier is also an employer, and as such has obligations under the WHMIS Regulation to their own workers. That means that the supplier may have to supply a workplace label for use in his own plant for any of the materials in (a) to (e). In addition, if any of these controlled products are used in the manufacture of these materials, all WHMIS requirements apply to the controlled products. June 10, 1998.

(e) product, material or substance packaged as a consumer product.

Note that this exemption is broader than the parallel exemption allowed in the Hazardous Products Act. The HPA exemption requires the product to be a consumer product that is listed in one of the appendices to the Act. June 10, 1998

(3) Notwithstanding subsection (1), these regulations do not apply where the controlled product is

These exemptions are the same as those in the Hazardous Products Act. The interpretations of these exemptions offered in the materials accompanying that Act apply equally here. June 10, 1998

(a) wood or a product made of wood;

(b) tobacco or a product made of tobacco;

(c) a manufactured article; or

Note also that there are certain materials that meet the WHMIS definition of a controlled product, yet because of their physical size or shape, would not endanger worker health or safety. Examples of such materials include gravel or coarse limestone which certainly meet the WHMIS definition of a controlled product because of their silica content, yet would not endanger worker health or safety because they could never be inhaled. The WHMIS Regulation does not specifically address such materials or circumstances. It is therefore the **policy** of the Occupational Health and Safety Division that the WHMIS requirements (labels, materials safety data sheets, training) will

only apply where such materials are packages or processed for a specific purpose, for example, the crushing and sizing of stone to be used for abrasive cleansing. June 10, 1998.

(d) being transported or handled pursuant to the requirements of the Transportation of Dangerous Goods Act (Canada) or the Dangerous Goods Transportation Act.

The transportation exemption means that MSDS's, labels and training are not normally required to be given to drivers. However, drivers who actively participate in loading/unloading, must be properly trained as per section 4 and have access to an MSDS at the point of loading/unloading. September 20, 1998.

(4) Notwithstanding subsection (1), these regulations do not apply to hazardous wastes except that the employer shall take every precaution that is reasonable in the circumstances to ensure the safe storage and handling of hazardous waste through the combination of any mode of identification and employee education.

Any means of identification is allowable, so long as the employees understand what it means. Examples of acceptable systems, when instituted with proper training, are colour coding, labelling and pictures. September 20, 1998.

Prohibition

3 (1) An employer shall take every precaution that is reasonable in the circumstances to ensure that a controlled product is not used, stored or handled in a workplace unless all of the applicable requirements of these regulations in respect of labels, identifiers, material safety data sheets and employee education are complied with.

(2) Notwithstanding subsection (1), an employer may store a controlled product in a workplace while actively seeking, by means of a written request to a supplier or other reasonable efforts, information required by these regulations if the employer ensures that the controlled product or the container of the controlled product has applied to it

(a) a workplace label; or

(b) if the employer does not have the information required for a workplace label, a label disclosing that the product is

(i) hazardous, and

(ii) cannot be used or handled at the workplace until further information is obtained.

Employee education

4 The employer shall take every precaution that is reasonable in the circumstances to ensure that an employee who works with a controlled product or in proximity to a controlled product is instructed in

Generic WHMIS training, that is neither workplace nor product specific (i.e. a general course on solvent safety) would be acceptable so long as the intent of the regulation is met. September 20, 1998.

An employee "works with a controlled product" if they store, handle, use or dispose of it or supervise anyone who performs these functions. September 20, 1998.

"In proximity" is the area in which worker health and safety could be at risk during:
- the storage, handling, use, or disposal of the product;
- maintenance operations; or,
- emergencies, such as an accidental leak or spill.
June 10, 1998.

The standard that the employer must meet relative to training under this regulation is a two fold test. The employer can take steps to ensure that the employee has received training that is adequate for the employer's purposes and rely on that training. If on review the employer determines that the employee has not been trained or that the training is not adequate for the employer's purposes the employer is responsible for the costs incurred and associated with the training that needs to be provided.

Most training pay and associated cost issues should be referred to the Labour Standards Division (if the employee is not unionized) or to the union grievance process. OH&S officers have authority to interpret and apply pay entitlements for employees in the following instances:

-joint occupational health and safety committee or health and safety representative training
-where payment is required by regulation
December 14, 2000

(a) the general content required on a supplier label and workplace label, and the purpose and significance of the information contained thereon;

(b) the general content required on a material safety data sheet and the purpose and significance of the information contained thereon;

(c) procedures for the safe use, storage, handling and disposal of controlled products;

These procedures would include procedures to deal with dangerous products formed when non-dangerous products react, such as calcium carbide and water reacting to form acetylene. PIS 8, September 19, 1998.

(d) procedures for the safe use, storage, handling and disposal of controlled products contained or transferred in

(i) a pipe,
(ii) a piping system including valves,
(iii) a process vessel,
(iv) a reaction vessel, or
(v) a tank car, tank truck, ore car, conveyor belt or similar conveyance;

(e) procedures to be followed where fugitive emissions are present; and

(f) procedures to be followed in case of an emergency involving a controlled product.

5 (1) An employer shall ensure that the program of employee education required by Section 4 is developed and implemented

There is no requirement for the employer to keep records of employee WHMIS training. September 20, 1998.

(a) for that employer's workplace;

(b) in relation to health or safety hazards that may be met by employees who work with or in proximity to controlled products; and

An employee "works with a controlled product" if they store, handle, use or dispose of it or supervise anyone who performs these functions. September 20, 1998.

"In proximity" is the area in which worker health and safety could be at risk during:
- the storage, handling, use, or disposal of the product;
- maintenance operations; or,
- emergencies, such as an accidental leak or spill.
June 10, 1998.

(c) in consultation with the joint health and safety committee, if any.

In workplaces where a Health and Safety Representative exists but not a Joint Occupational Health And Safety Committee, officers shall use the relevant sections of the OH&S Act to ensure that the representative is allowed to fulfill the duties and exercise the rights of a committee. September 20, 1998.

(2) An employer shall make reasonable enquiries to determine, so far as is reasonable practicable, that the program of employee instruction required by Section 4 results in the employee being able to apply the information as needed to protect the employee's health and safety and that of other persons at the workplace.

(3) The employer shall review at least annually, or more frequently if required by a change in work conditions or available hazard information, and in consultation with the joint health and safety committee, if any, the instruction and training provided to employees concerning controlled products.

The requirement for a review of the education program is not an absolute requirement for retraining, but rather, the review is intended to identify whether updating of the training program, and retraining of workers, are necessary. June 10, 1998.

In workplaces where a Health and Safety Representative exists but not a Joint Occupational Health And Safety Committee, officers shall use the relevant sections of the OH&S Act to ensure that the representative is allowed to fulfill the duties and exercise the rights of a committee. September 20, 1998.

Labels

Supplier label

6 (1) An employer who acquires a controlled product from a supplier for use, storage or handling at a workplace shall ensure that the controlled product or the container of the controlled product received at the workplace has affixed to it a supplier label.

(2) Subject to Sections 15 and 16, as long as any amount of a controlled product remains in a workplace in the container in which it was received from the supplier, an employer shall not remove, deface, modify or alter the supplier label.

(3) Where a label applied to a controlled product or a container of a controlled product becomes illegible or is accidentally removed from the controlled product or the container, the employer shall replace the label with either a supplier label or a workplace label.

(4) An employer who

(a) has received a controlled product in a multi-container shipment where the individual containers have not been labelled by the supplier; and

(b) has made a written undertaking pursuant to subparagraph 14(2)(a)(ii) of the Controlled Products Regulations,

shall affix to each container of the controlled product received at the workplace a label that meets the requirements of the Controlled Products Regulations.

(5) Where a controlled product or a container of a controlled product imported pursuant to Section 23 of the Controlled Products Regulations does not bear a supplier label, an employer who receives the controlled product or the container of the controlled product at a workplace shall affix to it a label that meets the requirements of the

Controlled Products Regulations.

(6) An employer who has received a controlled product transported as a bulk shipment shall

(a) affix a supplier label to the container of the controlled product or to the controlled product in the workplace; or

(b) where, pursuant to Section 15 of the Controlled Products Regulations the supplier is not required to label a controlled product transported as a bulk shipment, an employer shall affix a workplace label to the container of a controlled product or to the controlled product in the workplace.

Workplace label for employer-produced products

7 (1) Subject to Sections 15 and 16, where an employer produces a controlled product in a workplace, the employer shall ensure that the controlled product or the container of the controlled product has applied to it a workplace label.

These regulations do not place an explicit requirement on the employer to classify controlled products produced in the workplace according to the WHMIS hazard criteria. June 10, 1998.

In the special case of animal or human tissue or fluids that do or may contain biohazardous infectious materials, the workplace label shall identify the active biological organism that is known or suspected to be present. PIS 49. September 19, 1998.

(2) Subsection (1) does not apply to the production of a fugitive emission.

The WHMIS Regulation does not require the employer to provide a workplace label for a fugitive emission, although the identification of areas in which such emissions may constitute a hazard is required by section 13(1) of the Occupational Health and Safety Act where this is necessary to ensure the health and safety of persons at or near the workplace. June 10, 1998.

(3) Subsection (1) does not apply when the controlled product is in a container that is intended to contain the controlled product for sale or disposition and the container is or is about to be appropriately labelled.

Workplace label for decanted products

8 (1) Where a controlled product in a workplace is in a container other than the container in which it was received from a supplier, the employer shall ensure that the container has applied to it a workplace label.

(2) Subsection (1) does not apply to a portable container that is filled directly from a container or source that complies with the labelling or placarding requirements of these regulations if

(a) all of the controlled product is required for immediate use; or

(b) the employee who fills the portable container

(i) retains exclusive use and control of the portable container,

(ii) uses the controlled product in the portable container during the shift in which it was filled, and

(iii) is instructed by the employer to ensure that the content of the portable container is clearly identified by some mode of identification clearly legible to employees.

Identification of a controlled product in piping systems and vessels

9 Where a controlled product in a workplace is contained or transferred in

(a) a pipe;
(b) a piping system including valves;
(c) a process vessel;
(d) a reaction vessel; or
(e) a tank car, tank truck, ore car, conveyor belt or similar conveyance,

the employer shall take every precaution that is reasonable in the circumstances to ensure the safe use, storage and handling of the controlled product through employee education and the use of colour coding, labels, placards or any mode of identification clearly legible to employees.

Any means of identification is allowable, so long as the employees understand what it means. Examples of acceptable systems, when instituted with proper training, are colour coding, labelling and pictures. September 20, 1998.

Placard identifiers

10 (1) For the purposes of this section, "posting a placard" means posting a placard that

(a) discloses, subject to Sections 15 and 16, the information required on a workplace label;

(b) is of such size and in such a location that the information thereon is conspicuous and clearly legible to employees; and

(c) is in such a location as to be clearly referable to the controlled product to which it relates.

(2) Notwithstanding Sections 6, 7 and 8, an employer may fulfil the labelling requirements of Sections 6, 7 and 8 by posting a placard if the controlled product is

(a) not in a container;

(b) in a container intended for export; or

(c) in a container intended for sale or disposition and is to be appropriately labelled in the employer's normal course of business and without undue delay;

(d) in a container intended for use in the workplace and

(i) the container is consumed in a production process, and

(ii) subject to Sections 15 and 16, the container or the controlled product is identified through the use of colour coding, labels or any mode of identification clearly legible to employees.

(3) Notwithstanding Sections 7 and 8 and without limiting subsection (2), an employer may fulfil the labelling requirements of Sections 7 and 8 with respect to a container of a controlled product intended for use in a workplace by posting a placard if the employer ensures that

(a) the controlled product is located in an area to which the general public and unauthorized employees are not permitted access;

(b) the container of the controlled product is identified through the use of colour coding, labels or any mode of identification clearly legible to employees;

(c) subject to subsection (4), except where the controlled product is required for immediate use or where it is under the exclusive control of a single employee and is handled in accordance with Section 8(2)(b)(i) to (iii), the controlled product is not removed from the placarded area unless it first has a workplace label applied to it.

(4) Where a controlled product is moved directly and expeditiously from a container or source that complies with the labelling or placarding requirements of these regulations to an area where a placard is posted, notwithstanding Sections 7 and 8 the employer may, during the time that the controlled product is being moved, identify the controlled product through a combination of employee education and the use of colour coding, labels, placards, or any mode of identification clearly legible to employees.

Laboratory labels

11 (1) Where a controlled product

(a) originates from a laboratory supply house;
(b) is intended by the employer solely for use in a laboratory; and
(c) is packaged in a container in a quantity of less than 10 kilograms,

a label provided by the supplier and affixed to the container of the controlled product received at a workplace complies with the requirements of Section 6 with respect to a supplier label if it discloses, subject to Sections 15 and 16, the following information:

(d) a product identifier;
(e) where a material safety data sheet is available, a statement indicating that fact; and
(f) the following information that is applicable to the product:

(i) risk phrases,
(ii) precautionary measures, and
(iii) first aid measures.

(2) Where a sample of a product that is a controlled product or that a supplier or an employer has reason to believe may be a controlled product

(a) is contained in a container that contains less than 10 kilograms of the product;
(b) is intended by the supplier or the employer solely for analysis, testing or evaluation in a laboratory; and
(c) is one in respect of which the supplier is exempted by Section 9 of the Controlled Products Regulations from the requirement to provide a material safety data sheet,

It is recognized that a sample delivered to a laboratory may be impossible for either the supplier or employer to identify in whole or in part with respect to its contents. For this reason it is important to note that these regulations apply if there is "reason to believe" that the sample is a controlled product. Whether or not such a reason exists is likely to be indicated by such things as information from the supplier regarding nature of the sample or the nature of the tests which the laboratory is requested to perform. For example, has the supplier requested that the sample be tested for the presence of chemical X, where X is a controlled product? If so, the employer will have "reason to believe" that a controlled item may be present, and the item should be labelled as a hazardous laboratory sample. June 10, 1998.

a label provided by the supplier and affixed to the container of the controlled product received at a workplace complies with the requirements of Section 6 with respect to a supplier label if it discloses, subject to Sections 15 and 16, the following information:

(d) a product identifier;

(e) the chemical identity or generic chemical identity of any ingredient of the controlled product referred to in any of subparagraphs 13(a)(i) to (v) of the Hazardous Products Act, if known to the supplier or the employer;

In the case of biohazardous infectious materials, "chemical identity" means the name of the active biological organism. PIS 23, September 19, 1998.

(f) the supplier identifier;

(g) the statement "Hazardous Laboratory Sample - For hazard information or in an emergency call number disclosed under clause (h)";

(h) an emergency telephone number of the supplier that will enable

The emergency telephone number does not have to be available at all times. PIS 28, September 19, 1998.

(i) a user of the controlled product to obtain hazard information in respect of the controlled product, and

(ii) a physician or nurse to obtain any information in respect of the controlled product that is referred to in paragraph 13(a) of the Hazardous Products Act and is in the possession of the supplier for the purpose of making a medical diagnosis of, or rendering treatment to, a person in an emergency.

(3) Where a controlled product is in a container other than the container in which it was received from a supplier, or is produced in the workplace, the employer is exempt from the requirement of Section 8 if the controlled product

(a) (i) originates from a laboratory supply house, or
(ii) is a laboratory sample;

(b) is intended by the employer solely for use, analysis, testing or evaluation in a laboratory; and

(c) subject to Sections 15 and 16, is clearly identified through a combination of

(i) any mode of identification visible to employees at the workplace, and
(ii) employee education required by these regulations,

but the employer shall ensure that the mode of identification and employee education used enables the employees, subject to Sections 15 and 16, to readily identify and obtain either the information required on a material safety data sheet or a label or document disclosing the information referred to in subsection (2)(d) to (h), inclusive, with respect to the controlled product or the sample.

(4) Where a controlled product is produced in a laboratory, the employer is exempt from the requirement of Sections 7 and 8 if the controlled product

(a) is intended by the employer solely for evaluation, analysis or testing;
(b) is not removed from the laboratory; and
(c) subject to Sections 15 and 16, is clearly identified through a combination of

(i) any mode of identification visible to employees at the workplace, and
(ii) employee education required by these regulations,

but the employer shall ensure that

Note the definition of laboratory sample in section 2. June 10, 1998.

Decanted Products in a Laboratory
Where a controlled product received in a laboratory has been transferred from the original container for use, analysis, testing, or evaluation in the laboratory, the requirements of the regulations can be met if the employer ensures the following:
- the contents of the second container are clearly identified by any mode of identification legible to employees at the workplace,
- the program of employee education is properly conducted, and
- the effect of these procedures is that employees can readily identify and obtain either a material safety data sheet or a label or document disclosing the information provided by the supplier label, including the telephone number to be called for more hazard information or emergency purposes if the supplier was required by the Controlled Products Regulation to provide this. This method of identification is acceptable for decanted products originating from a laboratory supply house, and remaining in a laboratory. June 10, 1998.

the mode of identification and employee education used enables the employees, subject to Sections 15 and 16, to readily identify and *obtain either the information* required on a material safety data sheet, if one has been produced, or such other information as is necessary to ensure the safe use, storage and handling of the controlled product.

Material safety data sheets

Supplier material safety data sheets

12 (1) An employer who acquires a controlled product for use at a workplace shall obtain a supplier material safety data sheet in respect of that controlled product.

(2) Where a supplier material safety data sheet obtained pursuant to subsection (1) in respect of a controlled product is three years old, the employer shall, if possible, obtain from the supplier an up-to-date supplier material safety data sheet in respect of any of that controlled product in the workplace at that time.

(3) Where the employer is unable to obtain a material safety data sheet as required by subsection (2), the employer shall add any new hazard information that is known to the employer and applicable to that controlled product to the existing supplier material safety data sheet on the basis of the ingredients disclosed in that document.

It is recognized that at times an employer may not be able to obtain an up-to-date supplier material safety data sheet. This may be the case, for example, if the supplier has gone out of business or if the supplier no longer produces the material in question. In such cases, the employer is expected to make reasonable efforts to update the data sheet himself. Reasonable efforts means, for example, consulting the Canadian Centre for Occupational Health and Safety for assistance. June 11, 1998.

(4) The employer may make available for viewing at a workplace a material safety data sheet in a format different from the format provided by the supplier or containing additional hazard information or product identifiers if, subject to Sections 15 and 16,

(a) the material safety data sheet made available by the employer contains no less content than the supplier material safety data sheet; and

The phrase "no less content than the supplier material safety data sheet" covers only items dealt with in CPR section 12 and Schedule 1. Employers need not reproduce other information. PIS 1, September 19, 1998.

Employers may simplify supplier MSDS's so long as the supplier's intent is not changed and the perceived level of risk is not reduced. PIS 1, September 19, 1998.

If the employer uses a standard MSDS form which displays all information required under Schedule 1 and the supplier MSDS does not contain information for certain parts of the employer form, the employer may not enter "not available" or "not applicable" unless the employer has contacted the supplier and

otherwise reasonably searched to verify the truth of those statements. PIS 1, September 19, 1998.

The employer MSDS must reproduce the supplier's preparation information. The employer may, if they wish, add their own preparation information as well. PIS 1, September 19, 1998.

The employer MSDS must indicate that the supplier MSDS is available in the workplace. PIS 1, September 19, 1998.

If an employer uses identical products from more than one supplier, the employer may produce a composite MSDS, so long as all information from all suppliers is reproduced. If such a process produces contradictions within the employer MSDS, the employer must resolve them before using or distributing the composite MSDS. PIS 1, September 19, 1998.

In a composite MSDS:
- all trade names must be reproduced with the appropriate supplier name and telephone number beside each name;
- precautionary measures specific to different uses noted on different supplier MSDS's must be noted. PIS 1, September 19, 1998.

(b) the supplier material safety data sheet is available for viewing at the workplace and the material safety data sheet made available by the employer indicates that fact.

The original MSDS must be located within the company and within Nova Scotia. PIS 1, September 19, 1998.

"Available" shall be interpreted as meaning available within 24 hours. PIS 1, September 19, 1998.

(5) Where a supplier is exempted by the Controlled Products Regulations from the requirement to provide a material safety data sheet for a controlled product, the employer is exempt from the requirement to obtain, prepare or make available a material safety data sheet for that controlled product.

(6) Subject to Sections 15 and 16, where a controlled product is received at a laboratory and the supplier has provided a material safety data sheet, the employer shall ensure that a copy of the material safety data sheet is readily available for viewing by the employees who may be exposed to the controlled product and by the joint health and safety committee, if any.

In workplaces where a Health and Safety Representative exists but not a Joint Occupational Health And Safety Committee, officers shall use the relevant sections of the OH&S Act to ensure that the representative is allowed to fulfill the duties and

(7) Subject to Sections 15 and 16, where a controlled product is received or produced at a laboratory and the employer has produced a material safety data sheet, the employer shall ensure that the material safety data sheet is readily available for viewing by the employees who may be exposed to the controlled product, and by the joint health and safety committee, if any.

exercise the rights of a committee. September 20, 1998.

In workplaces where a Health and Safety Representative exists but not a Joint Occupational Health And Safety Committee, officers shall use the relevant sections of the OH&S Act to ensure that the representative is allowed to fulfill the duties and exercise the rights of a committee. September 20, 1998.

Employer Material Safety Data Sheets

13 (1) Where the employer produces a controlled product in the workplace, the employer shall prepare a material safety data sheet in respect of that product which discloses, subject to subsections (2) and (3), and to Sections 15 and 16, the information required under the Controlled Product Regulations.

(2) Where the chemical composition for a group of controlled products is similar, the employer may use a generic material safety data sheet for that group of products.

(3) Where a generic material safety data sheet is used and the hazard information in respect of a controlled product in the group is different from the hazard information in respect of the other controlled products in the group, the hazard information for that controlled product shall be disclosed on the material safety data sheet.

(4) Subsection (1) does not apply to the production of a fugitive emission or intermediate products undergoing reaction within a reaction or process vessel.

(5) An employer shall update the material safety data sheet referred to in subsection (1)

(a) as soon as practical but not later than 90 days after new hazard information becomes available to the employer; and

(b) at least every three years.

If a situation arises in which an employer is trying to produce a data sheet for a particular product, but has conflicting information about that product from two or more suppliers, the employer should notify the Occupational Health and Safety Division. The staff of the Division will evaluate the information in question, and tell the employer what information would be acceptable to put on the employer-produced data sheet. June 11, 1998.

Availability of Material Safety Data Sheets

14 (1) Subject to Sections 15 and 16, an employer shall ensure that a copy of a material safety data sheet required by Section 12 or 13 is made readily available for viewing at a workplace in a physical form that can be handled

(a) at all times during their working hours, by employees who may be exposed to the controlled product; and

"Readily available" means that the material safety data sheet must be located close to the workers, in a physical copy form (i.e., printed on paper), and accessible to workers during each shift (i.e. not locked in an office or cabinet). It is acceptable for workers, especially mobile crews, to have access to MSDS's at their home base provided they visit that base at least once a day. June 11, 1998.

"Fax on Demand" systems, whereby MSDS's are maintained by a contract organization offsite and faxed to a user location upon demand, are also acceptable providing the employer takes every precaution that is reasonable in the circumstances to ensure that a fax machine located at the workplace is in working order at all times when an MSDS may be required. September 19, 1998

(b) by the joint health and safety committee, if any.

In workplaces where a Health and Safety Representative exists but not a Joint Occupational Health And Safety Committee, officers shall use the relevant sections of the OH&S Act to ensure that the representative is allowed to fulfill the duties and exercise the rights of a committee. September 20, 1998.

(2) Notwithstanding subsection (1) and Sections 12(6) and (7), the employer complies with subsection (1) and Sections 12(6) and (7) if the employer

(a) ensures that a material safety data sheet is made readily available for viewing on a video display terminal or a computer terminal in the workplace;

(b) takes every precaution that is reasonable in the circumstances to ensure that the terminal is in active working order; and

(c) ensures that a material safety data sheet in a physical form that can be handled is made available for viewing without unnecessary delay and within twenty-four hours if requested by an employee or a member of the joint health and safety committee, if any.

In workplaces where a Health and Safety Representative exists but not a Joint Occupational Health And Safety Committee, officers shall use the relevant sections of the OH&S Act to ensure that the representative is allowed to fulfill the duties and exercise the rights of a committee. September 20, 1998.

Confidential business information

Deletions, Alternatives and Medical Emergencies

15 (1) Where an employer or supplier claims an exemption from a requirement to disclose information pursuant to the Disclosure of Information Regulations and Section 36(1) of the Occupational Health and Safety Act, the employer or supplier may delete from any label, any supplier material safety data sheet, any material safety data sheet prepared or made available by the employer, any placard or any other identifier, the information that is the subject of the claim but may not delete hazard information.

Note that this is an outdated reference. The correct reference in sub-section 61(1) of the 1996 Occupational Health and Safety Act. June 11, 1998.

See the definition of "hazard information" in section 2. June 11, 1998.

(2) An employer or supplier who has deleted information from a label, material safety data sheet, placard or other identifier pursuant to subsection (1) shall replace that information with

(a) the words "trade secret"; and

(b) an emergency telephone number of the employer or supplier that will enable a treating physician or nurse to obtain information that is in the possession of the employer or the supplier respecting the specific chemical identity of the controlled product for the purpose of rendering medical treatment to a person in an emergency, in accordance with Section 3 of the Disclosure of Information Regulations.

In the case of biohazardous infectious materials, "chemical identity" means the name of the active biological organism. PIS 23, September 19, 1998.

(3) Where an employer or supplier claims an exemption under subsection (1), it shall not be necessary to claim an exemption under Section 16.

(4) If there is any conflict between the provisions of these regulations and the Disclosure of Information Regulations, the provisions of the Disclosure of Information Regulations shall prevail, but an employer may not delete hazard information from a label, placard, supplier material safety data sheet, a material safety data sheet prepared or made available by the employer.

16 (1) Where an employer or a supplier claims an exemption from a requirement to disclose information pursuant to this section and to the Hazardous Materials Information Review Act, the employer or supplier may delete from any label, any supplier material safety data sheet, any material safety data sheet prepared or made available by the employer, any placard or any other identifier, the information that is the subject of the claim but may not delete hazard information.

(2) An employer or supplier who is required, pursuant to these regulations, to disclose on any label, any supplier material safety data sheet, any material safety data sheet made available by the employer, any placard or any other identifier, an item of informationreferred to in paragraphs (a) to (d) of subsection (2) of Section 11 of the Hazardous Materials Information Review Act may, if the employer or supplier considers such information to be confidential business information, claim an exemption from the requirement to disclose that information; but if the employer or supplier has made a claim pursuant to Section 15, it shall not be necessary to claim an exemption under this section.

(3) A claim under this section shall be made to the Commission established under the Hazardous Materials Information Review Act and shall be filed in accordance with the procedure established under that Act and the regulations made thereunder and shall be finally determined by the Commission in accordance therewith, subject to the appeal procedures established under that Act.

(4) Pursuant to Section 32 of the Hazardous Materials Information Review Act, the Commission shall exercise the powers and perform the functions specified in that Act and the procedures prescribed by regulations under that Act in respect of a claim made under this section.

(5) An employer or supplier who has deleted information from any label, material safety data sheet, placard or other identifier pursuant to subsection (1) of this

section shall replace the information with the date the claim for exemption was filed and the registry number assigned to the claim under the Hazardous Materials Information Review Act.

Confidentiality of information

Disclosure of Information

17 (1) Where an official of the Occupational Health and Safety Division of the Department of Labour obtains information pursuant to paragraph 46(2)(e) of the Hazardous Materials Information Review Act, the official to whom such information is communicated shall keep such information confidential and shall not disclose such information to any person except for the purposes of the administration or enforcement of the Occupational Health and Safety Act.

Paragraph 46(2)(a) of the Hazardous Materials Information Review Act reads as follows:
"(2) An official of the [Hazardous Materials Information Review] Commission may communicate or allow to be communicated information obtained by the Commission or an appeal board from a supplier or employer for the purposes of this Part, or allow inspection of or access to any book, record, writing or other document containing any such information, to or by
(e) any official of the government of a province, for the purposes of the administration or enforcement of any law of the province relating to occupational safety and health where under the law of that province similar provisions exist to protect the confidentiality of the information obtained as a result of such communication, inspection or access." June 11, 1998.

(2) Any person to whom information is disclosed, pursuant to subsection (1), shall keep the information confidential.

This requirement for confidentiality applies to Department of Labour staff as well. September 20, 1998.

18 No person shall use, disclose or release information protected as trade secret or confidential business information under these regulations except as provided by Sections 15(2)(b) and 17 of these regulations or by Section 6 of the Disclosure of Information Regulations.

This requirement for confidentiality applies to Department of Labour staff as well. September 20, 1998.

Disclosure of Data Source

19 (1) Subject to Sections 15 and 16, an employer who produces a controlled product at a workplace shall, at the request of an officer as defined in the Occupational Health and Safety Act, an employee who may be exposed to the controlled product or the joint health and safety committee, if any, disclose the source of any toxicological data used in preparing the material safety data sheet required pursuant to Section 13.

(2) Subject to Sections 15 and 16, the employer shall ensure that a product identifier on a label corresponds with at least one product identifier on a material safety data sheet.

In workplaces where a Health and Safety Representative exists but not a Joint Occupational Health And Safety Committee, officers shall use the relevant sections of the OH&S Act to ensure that the representative is allowed to fulfill the duties and exercise the rights of a committee. September 20, 1998.

Transition period

20 (1) These regulations shall come into force on October 31, 1988.

(2) A controlled product received at a workplace before October 31, 1988

(a) shall bear a workplace label; and

(b) is exempt for one year from October 31, 1988 from the provisions of these regulations respecting supplier labels.

(3) A controlled product received at a workplace before October 31, 1988 is exempt for a period of 90 days from October 31, 1988 from the provisions of these regulations respecting supplier material safety data sheets

(a) if the employer is actively seeking by means of a written request to a supplier or other reasonable efforts to acquire a supplier material safety data sheet for the controlled product; or

(b) if a supplier material safety data sheet is not available, the employer is developing a material safety data sheet containing no less information than that required for a supplier material safety data sheet.

(4) A controlled product received at a workplace is exempt for a period of 90 days from October 31, 1988 from the provisions of these regulations respecting employee education.

These dates are all passed. These sections have no current use. June 11, 1998.

21 (1) Notwithstanding Section 2, 6 or 12, but subject to subsection (2), the provisions of these regulations in respect of a supplier label and a material safety data sheet do not apply to a controlled product received in the workplace before March 15, 1989 if

These dates are all passed. These sections have no current use. June 11, 1998.

(a) the sale of the controlled product is exempted by Sections 8.1 and 15.1 of the Controlled Products Regulations from the requirement to provide a supplier material safety data sheet and supplier label for the controlled product;

(b) the controlled product or the container of the controlled product bears a workplace label consistent with the information known to the employer at the time the controlled product is received at the workplace; and

(c) the employer uses a combination of employee education and any visible mode of identification that communicates to the worker that the product is

(i) a controlled product that has been received in the workplace before March 15, 1989 and

(ii) temporarily exempt from the requirement of Section 13 of the Hazardous Products Act with respect to the provision of a supplier label and supplier material safety data sheet.

(2) Where the sale of a controlled product is exempted by Section 8.1 and 15.1 of the Controlled Products Regulations from the requirement to provide a supplier material safety data sheet and supplier label, and where the controlled product is received at the workplace before March 15, 1989,

(a) the controlled product is exempt until October 31, 1989 from the provisions of these regulations respecting supplier labels; and

(b) the controlled product is exempt until June 15, 1989, from provisions of these regulations respecting material safety data sheets if, after March 15, 1989,

(i) the employer is actively seeking by means of a written request to a supplier or other reasonable efforts to acquire a material safety data sheet for the controlled product, or

(ii) a supplier material safety data sheet is not available, and the employer is developing a material safety data sheet containing no less information than that required for a supplier material safety data sheet.